

Message Text

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ACTION NEA-11

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CINCPAC

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CINCPAC FOR POLAD

E.O. 11652: GDS
TAGS: PINT, SHUM, PK
SUBJECT: BHUTTO APPEAL OPENS

REF: (A) ISLAMABAD 3783 (B) ISLAMABAD 3212 (C) ISLAMABAD 2970
(D) ISLAMABAD 2842

1. SUMMARY: THE PAKISTAN SUPREME COURT OPENED HEARINGS 20 MAY
ON FORMER PM BHUTTO'S APPEAL OF HIS MURDER CONVICTION. THE
SESSION WAS TAKEN UP WITH LEGAL MANEUVERING AND THE OPENING
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STATEMENT BY BHUTTO'S ATTORNEY. THE COUNTRY REMAINED PEACE-
FUL, BUT THE FUROR OVER BHUTTO'S PRISON CONDITIONS CONTINUES.
END SUMMARY.

2. THE PAKISTAN SUPREME COURT, SITTING IN RAWALPINDI,
OPENED HEARINGS 20 MAY IN THE APPEAL BY FORMER PM BHUTTO

AGAINST HIS MURDER CONVICTION IN THE LAHORE HIGH COURT.
(REFTELS). THE HEARING OPENED ON SCHEDULE AND WAS ATTENDED
BY 50 CORRESPONDENTS, MANY OF THEM FROM THE FOREIGN PRESS.
ALSO IN THE AUDIENCE WERE A LARGE NUMBER OF LAWYERS, AND
SOME POLITICAL FIGURES, INCLUDING FORMER FORMER AZIZEHMED.

3. IN ITS INITIAL ACTION, CHIEF JUSTICE ANWAR UL-HAQ
OVERRULED THE OBJECTION, PUT BY BHUTTO'S COUNSEL YAYHA BAKHTIAR,
THAT HE, THE CHIEF JUSTICE, WAS BIASED AND THEREFORE SHOULD NOT
SIT ON THE BENCH. HAQ SAID THAT HE "HAD NOT THE SLIGHTEST BIAS
OR PREJUDICE AGAINST THE APPELLANT", AND THAT BHUTTO'S OBJECTION TO
HIS PRESIDING OVER THE TRIAL WAS "MISCONCEIVED OR INCORRECT".
BHUTTO'S LAWYER ALSO MOVED THAT THE CHIEF JUSTICE SHOULD NOT PRESIDE
BECAUSE OF HIS RECENT THREE-WEEK STINT AS ACTING PRESIDENT, WHEN
PRESIDENT CHAUDHRY WAS OUT OF THE COUNTRY. THE CHIEF JUSTICE
SMOTHERED THAT MOTION WITH A STRONG DENIAL OF ITS VALIDITY AND A
WELTER OF PRECEDENTS. THE CHIEF JUSTICE ALSO DENIED THE APPELLANT'S
OBJECTION THAT HE SHOULD REFRAIN FROM NOMINATING JUDGES FOR THE
CASE.
HAQ ANNOUNCED SUBSEQUENTLY THAT THE CASE WOULD BE HEARD BY A FULL
BENCH -- ALL NINE JUSTICES -- OF THE SUPREME COURT.

4. AFTER THIS INITIAL PROCEDURAL WRANGLE, BHUTTO'S
LAWYER BEGAN HIS STATEMENT. BAKHTIAR SAID THAT THE CASE AGAINST THE
FORMER PM IN THE LAHORE HIGH COURT WAS "FALSE, FABRICATED, AND
POLITICALLY MOTIVATED". BAKHTIAR SAID BHUTTO HAD BEEN A VICTIM OF AN
"INTERNATIONAL CONSPIRACY" WHOSE OBJECT WAS FORCEABLY TO ELIMINATE
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THE FORMER PM. BAKHTIAR CLAIMED ANEW THAT THE CHIEF JUSTICE OF THE
LAHORE HIGH COURT WAS BIASED AGAINST BHUTTO, THAT THE TRIAL IN THE
LOWER COURT WAS UNFAIR, AND THAT BHUTTO HAD (THEREFORE) BOYCOTTED
THE
PROCEEDINGS. BAKHTIAR ALSO SAID THAT NOT ONLY HAD THE PROSECUTION
FAILED TO PROVE ITS CASE, BUT THAT THE TRIAL RECORDS HAD SUBSEQUENTLY
BEEN TAMPERED WITH.

5. BAKHTIAR MOVED THAT BHUTTO BE ALLOWED TO BE PRESENT IN COURT
DURING THE APPEAL, A PROCEDURE NOT GENERALLY FOLLOWED IN APPEAL
HEARINGS IN PAKISTAN. THE CHIEF JUSTICE RESERVED JUDGEMENT, SAYING
THAT FOR THE MOMENT THE FACT THAT BHUTTO IS IN RAWALPINDI MAKES IT
POSSIBLE FOR BAKHTIAR TO RECEIVE TIMELY INSTRUCTIONS FROM HIS CLIENT.

6. THE SPECIAL PUBLIC PROSECUTOR, M.A. REHMAN, IN HIS ONLY
STATEMENT ON THE OPENING DAY, OBJECTED TO BAKHTIAR'S CLAIMS,
SAYING THAT HE HAD NOT PROPERLY REVIEWED THE EVIDENCE AND ALLEGING
THAT BAKHTIAR WAS "PLAYING TO THE GALLERY" OF THE INTERNATIONAL
MEDIA WITH HIS OPENING STATEMENT.

7. THE CONTROVERSY OVER BHUTTO'S PRISON CONDITIONS CONTINUES UNABATED. THE BBC 18 MAY CARRIED A STATEMENT FROM COUNSEL BAKHTIAR THAT BHUTTO WAS SERIOUSLY ILL AND "MIGHT NOT LIVE THROUGH HIS APPEAL."

THIS CLAIM WAS CONTRADICTED 19 MAY IN A PRESS RELEASE ISSUED BY THE PUNJAB GOVERNMENT -- BHUTTO'S JAILER -- WHICH CLAIMED THAT BHUTTO WAS IN GOOD HEALTH AND WAS BEING PROVIDED "ALL THE FACILITIES NORMALLY AVAILABLE TO BETTER CLASS PRISONERS." THE STATEMENT DESCRIBED BHUTTO'S PLACE OF CONFINEMENT IN THE RAWALPINDI JAIL AS FOUR ADJOINING ROOMS, EACH 12 FEET BY 8 FEET -- ONE, A BEDROOM, ONE, A BATHROOM, THE THIRD, A KITCHEN, AND THE FOURTH, FOR STORAGE. THERE IS ALSO SPECIAL FOOD PROVIDED, AND A COOK. BHUTTO ALSO HAS A REFRIGERATOR AND IS PROVIDED WITH READING MATERIAL, ACCORDING TO THE ANNOUNCEMENT.

8. THE BBC REPORTED 20 MAY BAKHTIAR'S STATEMENT THAT BHUTTO HAD GONE LIMITED OFFICIAL USE

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ON A "HUNGER STRIKE" TO PROTEST HIS PRISON CONDITIONS. THE PRO-PPP PAPER TAMEER 21 MAY, HOWEVER, CARRIES A STATEMENT PURPORTEDLY FROM BHUTTO SAYING "I AM NOT A FOLLOWER OF GANDHI AND WOULD NOT GO ON HUNGER STRIKE."

9. DAILY SITTINGS OF THE COURT WILL CONTINUE. HUMMEL

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